

# PDF PAGE 1, COLUMN 1

**I'm Not Convinced Frank Is Guilty or Innocent, Says Judge**

"Gentlemen, I have thought about this case more than any other I have ever tried. I am not

certain of this guilt. With all the thought I have put on this case, I am not thoroughly convinced that Frank is

But I do not have to be convinced. The jury was convinced. There is no room to doubt that. I

feel it is my duty to order that the motion for a new trial be overruled," said Judge Roan in announcing his decision on the Frank motion.

**JUDGE L. S. ROAN,  
WHO  
RENDERED  
DECISION  
DENYING A  
NEW TRIAL**

# PDF PAGE 1, COLUMN 6

	<p><b>“The jury was Convinced; it is my duty to deny a new trail,” said Judge Roan.</b></p>
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**PDF PAGE 1, COLUMN 7**

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**DEFENSE GETS  
READY**

# FOR FINAL STAND IN FIGHT TO SAVE FRANK

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Close upon the defeat of their motion for a new trial, the attorneys for Leo M. Frank, convicted of the murder of Mary Phagan, began Friday the draft of the bill of exceptions which will take the case to the Supreme Court of the State.

The new trial was denied by Judge with the remarkable statement that he himself was not certain of Frank's innocence or guilt.

Attorney Reuben R. Arnold had part of the draft prepared by noon. Leonard Haas, another of the lawyers for Frank, was busy making copies of the affidavits which figured prominently in the hearing for a new trial.

Indications Friday were that the arguments before the Supreme Court in behalf of a new trial would begin the last week in January or the first in February.

The clerk of the Superior Court has ten days in which to make a copy of the record to file with the Supreme Court. Because of its volume in the Frank trial, he will require all of the time given him by law.

*To Reach Climax on Appeal*

The Supreme Court, when the appeal is brought to its cognizance, will place it on its docket to be heard in January or February, it is believed. The decision of the Supreme Court will be handed down in from one to six months after the conclusion of the arguments.

The arguments, which have grown in intensity as the great murder trial has progressed through its various stages, which will reach their climax before the Supreme Court, as this is regarded as practically the last stand of the lawyers who are fighting for the life of Frank.

Luther Z. Rosser, chief of counsel for the man convicted of the murder of Mary Phagan, made a request immediately upon the announcement of the decision that Judge Roan should not resign his seat on the bench of the Criminal Court until a bill of exceptions had been filed, taking the case to the Supreme Court.

Rosser also insisted that Judge Roan's remarks with which he prefaced his decision and in which he expressed his uncertainty as to Frank's innocence or guilt should be incorporated as part of the bill of exceptions.

## *'Let Us Have Truth for Once'*

This was strenuously resisted by Solicitor Dorsey, who maintained that the procedure was irregular and unusual, and that he was not aware that it ever had been done before.

"Let's not quarrel over whether it ever has been done before," shouted Attorney Rosser. "Let's have the truth for once."

In giving his decision Judge Roan had said: "Gentlemen, I have given this question long consideration. It has given me more concern than any other case I ever was in. And I want to say here that, although I heard the evidence and the arguments during those thirty days, I do not know this morning whether Leo Frank is innocent or guilty."

“But I was not the one to be convinced. It appears that the jury was convinced and I must approve their verdict and overrule the motion.”

When the Solicitor objected to the admission of the court’s uncertainty, Judge Roan replied: “Well, that’s exactly the way I feel about it, gentlemen; you do with it what you wish.”

The remarks will constitute a part of the bill of exceptions which will take the great murder case before the Supreme Court.

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## **PDF PAGE 7, COLUMN 1**

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‘LET US HAVE THE TRUTH FOR ONCE,’ SAYS  
ROSSER, APPEALING

*Frank Attorney Insists on Judge’s Remarks With  
Decision Going Into Record*

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## **PDF PAGE 7, COLUMN 1**

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**JUDGE NOT  
CONVINCED OF  
GUILT OR  
INNOCENCE AS**

# HE DENIES FRANK RETRIAL

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**Continued From Page 1.**

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**and amended motion, and the affidavits submitted by the State, the motion for a new trial is overruled and denied this October 31, 1913.**

**“L. S. ROAN, Presiding Judge.”**

The decision fell like a blow on the attorneys and friends of the convicted factory superintendent. They had hoped against hope for a new trial on at least one of the many grounds that had been advanced.

It was apparent, however, that Rosser and Arnold were not without a premonition of the failure of their second hard fight for the life of their client. They came into Judge Roan's office with sober faces, and displayed little of the geniality and ordinarily marks their conduct.

Solicitor Dorsey were his usual complacent air and awaited the decision without any show of apprehension. The suspense in the hour and a half while the formalities of closing the hearing and approving the records were being completed was even greater than the time last August when the crowd was awaiting the verdict against Frank.

**Even More Is at Stake.**

Even more was at stake this time than before. If the motion for a new trial failed, it meant that another recourse in the battle for Frank's life and freedom had been exhausted. No one was in the office of Judge Roan save the judge, the lawyers for the defense. Solicitor Dorsey, several court attaches, one or two friends of Frank and the newspaper men.

Impressed by the portentousness of the occasion, the few people in the room looked on in absolute silence and a certain dread expectancy. There was only the conversation of the lawyers necessary to the arrival at an agreement over the records and the grounds of the amended motion.

Solicitor Dorsey brought in a list of added objections to the grounds for the new trial, some of which insisted that the wording of several of the grounds should be redrafted or omitted altogether. Judge Roan said that he already had passed on these, but that the objections would be retained to be used later, if need be.

After Judge Roan had approved the amended motion and the records of the case, there was a clearing away of papers in anticipation of decision. Judge Roan had the air of one on whom a great responsibility rested. There was a shade of a tremor in his voice when he began to speak. He hardly begun before one could guess that he had it in his mind to rule against the defendant. The lawyers for Frank sensed it and their countenance showed that they were bitterly disappointed.

Attorney Rosser recovered himself and with scarcely a show of feeling made his announcement that the case would be appealed to the Supreme Court.

He would not make a statement to the newspapers.

"I don't try my cases in the papers," he said, "If I had anything to say just at present, I'm afraid it might be indecent."

Solicitor Dorsey would have little to say, explaining that the time to talk was "when the court was against you, not when it was with you."

"That's the decision I expected; it certainly was," he said. "I wouldn't have believed that Judge Roan could rule against the State in the case until I actually had heard his words. It appeared to me that the law was on our side in every contended point."

Attorney Arnold said: "We will take the case at once to the Supreme Court. Never a doubt has existed in our minds that we were entitled to a new trial.

**Convinced of Victory.**

"The verdict was not justified by the evidence. Judge Roan himself, a good lawyer who can weigh evidence much better than any juryman, admitted that he did not know whether Frank was innocent or guilty. But aside from this we are even more firmly convinced that we are entitled to a new trial since we have investigated the record question by question than we were when the trial ended."

"We are satisfied to go to the Supreme Court. We are willing that the matter be decided simply on the legal points involved."

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**PDF PAGE 7, COLUMN 1**

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***Deathlike Calm in Court***

***As Decision Is Rendered***

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It was passing 10 o'clock in the chamber of Judge Roan, and the arguments were done.

The lawyers for Leo Frank and the lawyers for the State of Georgia waited for the ruling.

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The last word had been said in the motion for a new trial. The final objection by the Solicitor had been listed.

The clerk marked the bulky documents “fled.” He dated the filing and stepped back.

Judge Roan sat through the last moments before his ruling with no betrayal of emotion, save that now and again he tapped with his shell-rimmed eyeglasses against the back of his thumb, or took a breath longer than usual.

It was four minutes past the hour when the clerk stepped back among the little group of newspaper men.

The judge spoke in the sway of a heavy, dead silence. His voice was low and a trifle husky.

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The judge’s voice ceased. In the quiet there fell the quick beat of steps to the door, and then the sound of sharp voices at the telephones outside.

For a moment the lawyers on either side of the table did not move. Mr. Arnold was standing. He turned away with a barely perceptible shrug of the shoulders. Mr. Rosser sat stolidly at the table. Mr. Dorsey’s expression did not change a line.

To an unknown onlooker, it would have been impossible to choose the winner and the loser of the second battle for the life and honor of Leo Frank.

The clerk gathered up his burden of documents and papers.

The hearing was over.

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## **Frank Still Stoic; Wife Breaks Down.**

Surrounded by his wife and friends, Frank received the news of his second defeat with the same remarkable coolness with which he heard his sentence to be hanged after his conviction on the charge of having murdered Mary Phagan.

A friend who was with him said he made his characteristic statement.

“My belief remains unshaken that justice will ultimately be done and the truth be known—the truth that will prove my entire innocence.”

About a dozen friends in all called to offer encouragement and express once more their confidence. Most of them are relatives, amongst them the parents of the prisoner’s wife. They all, except the wife, left about 11 o’clock. There was a look of utter misery and despair in Mrs. Frank’s eyes as she sat, stunned and hopeless, at her husband’s side in the dreary Tower cell. Few words passed between them.

Frank as usual, refused to see newspaper men.

Jim Conley, obeying his lawyer, W. M. Smith, did likewise.

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**PDF PAGE 2, COLUMN 1**

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**FRANK HAPPY OVER ROAN’S  
SPEECH**

**PDF PAGE 2, COLUMN 7**

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# **TRIAL JUDGE'S DOUBT TO BE MAIN WEAPON IN DEFENSE'S APPEAL**

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Planning to make trial Judge L. S. Roan's own words expressing doubt of the innocence or guilt of Leo M. Frank, their principal weapon, counsel for the man convicted of Mary Phagan's death Saturday put the finishing touches to the bill of exceptions which will be put before the Supreme Court of Georgia.

Work on the bill was rushed by the lawyers so as not to hold up the resignation of Judge Roan from the Superior Court, which he quits to go on the Court of Appeals bench Monday. Judge Roan was expected to attach his signature to all the papers Saturday.

Frank's lawyers were busy seeking precedents by which it was said the Supreme Court can order a new trial on the new

mere expression by a trial judge of his doubt of the guilt of the defendant.

Reluctant as he is to speak of any phase of the case except in a courtroom it became known that Luther Rosser, chief of counsel for the prisoner, considered Judge Roan's remarks the most important victory the defense has achieved and would make them the center of the Supreme Court fight.

Frank himself, who has closely followed every move in the fight for his life and has more than once advised his lawyers, was reported happy over the judge's remarks. Friends said he considered it a vindication, arguing that if Judge Roan had been on the jury, he must necessarily have voted to acquit him.

### **Prepare for Bitter Fight.**

The prisoner's lawyers prepared to make one of the bitterest fights ever witnessed in the State's highest courts, but they will be met at every point by Solicitor Dorsey and his assistants. The Solicitor, congratulated by many of his second victory, had little to say. He remarked that the time to talk was when you were losing.

Frank A. Hooper, who has been working with Mr. Dorsey, in an unexpected statement, denied once more racial prejudice had ever figured in the activity of the Solicitor's office or that of the police.

There was a general inclination on all sides to ignore the apparent efforts to lay down a course of action for the Supreme Court in published statements giving rulings of the appeals court supposed to bear on the Frank case.

### **Ruling of Little Significance.**

The Supreme Court, of course, is not guided in any way by the Appeals Court rulings, so that there is little, if any, significance in a decision handed down Friday making the trial judge the tryor as to the bias of jurors.

The Appeals Court held in the case of Taylor vs. the State that the reviewing court could not go behind the decision of the judge as to whether the jury was biased or not.

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**PDF PAGE 3, COLUMN 1**

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**FRANK BEGINS LAST FIGHT FOR  
NEW TRIAL**

**PDF PAGE 3, COLUMN 8**

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**PLEA  
CITES**

**DOUBT**

**S**

**HELD**

**BY**

# JUDGE

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## **Bill of Exceptions Is Filed, and Bitter Fight in Supreme Court Is Promised.**

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With the filing of the bill of exceptions Saturday morning the final fight to save the life of Leo M. Frank, convicted of the murder of Mary Phagan, was under way and one of the most notable Supreme Court battles in the history of Georgia promised.

Lawyers for Frank rushed the work on the bill to allow Judge Roan to leave the Superior Court bench to-day so that he could assume his new duties as a member of the Court of Appeals as scheduled.

Judge Roan and Judge Bell Hill appointed to the new Atlanta Circuit bench, qualified at the Capitol Saturday at noon, and will take up their new duties Monday. Judge Hill faces a badly crowded docket, Judge Roan assumed his seat with the Appeals Court slate clean for the first time on record.

The feature of the hill of exceptions, in the eyes of Frank and his lawyers, is unquestionably Judge Roan's own remarks expressing doubt as to Frank's innocence or guilt.

### **Precedents To Be Cited.**

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<p><b>Ru</b></p> <p>The Supreme Court and the Appeals Court ruled on the significance in a decision by the judge the prior as to whether the reviewing court could not go behind the decision of the judge as to whether the jury was biased or not.</p>	<p>in the bill by Frank's lawyers' and the difficulty was solved by accepting The Georgian's version. It is probably the first time in court history that a newspaper report of a legal proceeding has been used as a court record. It will be noticed by those who read the original report that a phrase has been eliminated. Here is The Georgian's report, clipped from yesterday's Georgian by</p>	<p>"Gentlemen, I have thought about this case more than any other I have ever tried. I am not certain of this man's guilt. With all the thought I have put on this case, I am not thoroughly convinced that Frank is guilty or innocent. The jury was convinced. There is no room to doubt that. I feel it is my duty to order that the motion for a new trial be overruled."</p>
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## PDF PAGE 4, COLUMN 1

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### ***GEORGIAN'S REPORT OF JUDGE'S COMMENT MADE THE RECORD***

The Georgian's report of Judge L. S. Roan's remarkable expression of doubt in refusing to grant Leo M. Frank a new trial was Saturday incorporated into the official bill of exceptions by common consent of Solicitor Hugh M. Dorsey, Luther Rosser and the Court itself.

Mr. Dorsey objected to the report of the Judge's words as first given

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## PDF PAGE 4, COLUMN 1

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### **FRANK RELIES ON ROAN'S SPEECH FOR A NEW TRIAL**

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## PDF PAGE 4, COLUMN 7

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# **JUDGE TO SIGN BILL OF EXCEPTIONS WITH CHANGE IN REMARKS**

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With the bill of exceptions to be signed by Judge L. S. Roan Saturday afternoon, the last fight for a new trial for Leo M. Frank has begun in earnest.

Judge Roan will sign the bill of exceptions at 4 o'clock Saturday afternoon, Attorneys Rosser and Arnold for the defense requesting a few hours' additional time to correct stenographic mistake in the copy.

Solicitor Dorsey was furnished with a copy of the exceptions in the rough form that he might peruse it while the stenographers are rewriting certain pages.

A change in Judge Roan's astonishing statement that he is not convinced as to Frank's guilt or innocence as reported by the defense was made on Solicitor Dorsey's objections that the words

accredited to Judge Roan in the bill were not exactly the words he had spoken. Judge Roan's expression of doubt will undoubtedly be the defense's main reliance in the fight for a new trial.

### **Georgian Report Correct.**

"The Georgian had your words exact, your honor," said Solicitor Dorsey to the court.

A copy of The Georgian of Friday was called for by Judge Roan, and the statement therein was declared by him to be correct.

This read:

"Gentlemen, I have thought about this case more than any other I have ever tried. I am not certain of this man's guilt. With all the thought I have put on this case I am not thoroughly convinced that Frank is guilty or innocent. But I do not have to be convinced. The jury was convinced. There is no room to doubt that, I feel that it is my duty to order that the motion for a new trial be overruled."

Attorney Herbert Haas insisted that Judge Roan had not made the remark: "But I do not have to be convinced," and the judge agreed with him."

### **Agreed to Change.**

"I will ask you gentlemen to change the wording of the bill of exceptions to this, leaving out the words: 'But I do not have to be convinced,'" said Judge Roan.

All the attorneys agreed, and The Georgian's report was made the official record.

Those in the judge's chambers at the time were Solicitor Dorsey and Attorneys Luther Rosser, Reuben Arnold, Herbert Haas and Leonard Haas. The bill of exceptions is unusually long, containing all of the charges included in the amended motion for a new trial, besides the remarks made by Judge Roan.

Frank's attorneys labored on the bill until late Friday night. Judge Roan was advised by them that it would be ready by 9:30 o'clock, and was in his chambers awaiting them. They later advised that it would be 10:30 before they would finish. It was 20 minutes before 12 o'clock when they arrived.

**Bill Read in Part.**

Colonel Rosser at once stated to Judge Roan that they to rewrite some of the pages. Solicitor Dorsey had previously said he would not require a reading of all the affi-

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**PDF PAGE 9, COLUMN 1**

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**FRANK  
LOOKS TO  
ROAN'S  
SPEECH**

# TO AID HIM

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## Bill of Exceptions Filed After Dor- sey Gets Correction –Judge Signs It To-day.

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**Continued From Page 1.**

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davits listed, as the total reading of the bill probably would require three hours' time.

He asked that the part relative to Judge Roan's remarks might be read, so that it could be agreed upon without further delay.

Judge Roan was anxious to sight the bill of exceptions during the morning as arrangements had been made with Governor Slaton to qualify him for the Court of Appeals, Solicitor General Reid, of the Stone Mountain Circuit for judge of that circuit to succeed Judge Roan, and Judge Ben Hill as judge of the new division of the Fulton County Superior Court, at 12 o'clock.

Colonel Rosser telephoned Governor Slaton and requested that this time be delayed until 4:30 o'clock.

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expression by a trial judge of his doubt of the guilt of the defendant.

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## PDF PAGE 5, COLUMN 5

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**FOR DETAILS OF THE  
FRANK CASE  
CASE SEE PAGE 2.**

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**PDF PAGE 8, COLUMN 1**

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**FRANK  
LOOKS TO**



# ROAN'S SPEECH TO AID HIM

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**Continued From Page 1.**

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# Frank Rehearing Again Halts Dodd Will Litigation

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The arduous attention which Luther Rosser has accorded the Frank appeal is responsible for the further postponement of the sensational Dodd will case, which was set for a hearing before Judge Ellis the first thing Thursday morning. It was decided Friday

to put the hearing over until next Monday, when it is believed Mr. Rosser will be able to take up the case.

The will case is expected to be warmly contested. Mr. Rosser represents the defense, and the main testimony of the contending heirs, cut off by the will, is to be that Mrs. Philip Dodd so ordered her will in regard to her kinspeople because they had refused to kill her first husband. The estate is estimated at \$100,000.

The case was appealed from the ordinary's court, and will be defended by the executor, who has retained Mr. Rosser.

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**PDF PAGE XXX, COLUMN 1**

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# All Around The Town

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Solicitor Hugh Dorsey and Reuben Arnold seemed about to come to blows or to a passage at arms during one of their

superheated arguments in the Frank trial hearing. Few adjectives had been left unused in the attacks and counter-attacks. Five minutes later they were laughing and talking together as amicably as any two cronies.

“Hugh and I are like the two lawyers the timorous old woman saw,” explained Arnold. “They were arguing an important case and she thought they were about to tear each other limb from limb. When one of them followed the other from the courtroom, she was sure murder was about to be done. She called frantically for a policeman. What the bluecoat saw when he arrived was the two lawyers in the nearest barroom having the friendliest sort of a drink together. The only place where the analogy falls down is in the fact that I don’t drink.”

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## **PDF PAGE XXX, COLUMN 1**

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**JUDGE ROAN’S  
AMAZING**

**DECISION in the Frank  
Case---Not Certain of  
the**

**Man’s Guilt but  
Refuses Him**

# a New Trial

Judge Roan's decision in the Frank case upon the motion for a new trial is the most amazing announcement ever made from the bench. Read it carefully and study it closely. Here it is:

"I have given this question long consideration. It has given me more

concern than any other case I ever was in. And I want to say here that,

**ALTHOUGH I HEARD THE EVIDENCE AND THE ARGUMENTS DURING THOSE**

**THIRTY DAYS, I DO NOT KNOW THIS MORNING WHETHER LEO FRANK IS**

**INNOCENT OR GUILTY.** But I was not the one to be convinced. **THE JURY**

**WAS CONVINCED,** and I must approve their verdict and overrule the

motion."

The words capitalized are ours. They are plain words. They mean just what they say—that Judge Roan, skilled in the law, skilled in the handling of criminal trials, with a long and honorable service for the people, does **NOT KNOW EVEN NOW**, after hearing very word of the evidence, after hearing every word of the evidence, after hearing both Frank and Conley, after hearing every legal point realized, after deciding all questions—**JUDGE ROAN DOES NOT KNOW EVEN NOW** if the accused is guilty.

Could anything be more astounding than this?

If Judge Roan **DOES NOT KNOW** and the jury only **APPEARS** to know, what shall be said of the confusion in the minds of the great public who read only fragments of the evidence? How



could the people form a just opinion, if Judge Roan could not do so?

This newspaper has always been and always will be firm in upholding the law, and standing out against all unfair opposition to our judges. We believe in our courts and in our judges. We believe our jury system should be so safeguarded in the future that it will be impossible for men to qualify as juror who have, previous to their selection, uttered opinions either **FOR OR AGAINST** the individual on trial.

Frank's lawyers filed only 115 objections in the motion for a new trial.

It would seem that Judge Roan has written into the case an objection so large and overshadowing that the other 115 sunk into insignificance and that the Supreme Court will order a new trial on Judge Roan's decision, if for no other reason.

Judge Roan, because of his ability and learning, because of his honesty and sincerity, seems to have made a new trial certain, and even those persons who believed in Frank's guilt up to the moment that Judge Roan said that **HE IS STILL IN DOUBT** will agree that the famous case has been reopened, and that it never will be closed until Frank's innocence or guilt is **CLEARLY AND POSITIVELY ESTABLISHED.**

Judge Roan has put himself at the head of that group of men and women who are **STILL IN DOUBT**, who ask only for fair play, and who will be only satisfied when **EVERY DOUBT IS REMOVED.**

To the lay reader it would seem that if Judge Roan had sat in the jury box **HE WOULD NOT** have found a verdict of guilty. He could not honestly have done so.

Every accused person, under our law, must be given the benefit of the doubt. That is fair. That is JUSTICE, as the American people understand it.

Bear in mind that this issue is larger than Frank personally.

This newspaper had no special interest in Frank the individual. If he is proven guilty, **BEYOND DOUBT**, let the law take its course promptly. The humblest person in our State will always receive fair treatment from us. We heartily favor the hanging of Frank—**IF HE IS GUILTY—IF ALL DOUBT IS REMOVED.**

But when Judge Roan, the trial judge, is IN DOUBT, and boldly says so, it is not time to pause, before legal murder is added to the long list of other crimes in our State?

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